

1 the physical -- in the logical image; is that right?

2 A With the reporting you can go through and select a range,  
3 but when you extract it, no. You select all text messages.

4 Q All right. But what we have here, what we looked at at  
5 Exhibit 108 is a report; right?

6 A Correct.

7 Q And that report under the Cellebrite software, you can  
8 select a range of time; right?

9 A Correct.

10 Q Okay. You didn't search Mr. Burns' computer; is that  
11 right?

12 A No, I did not.

13 MR. CHOWDHURY: May I have one moment, Your Honor?

14 THE COURT: Yes.

15 MR. CHOWDHURY: No further questions, Your Honor.

16 THE COURT: All right. Any additional questions of  
17 this witness?

18 MS. JAIMEZ: Yes, Your Honor.

19 REDIRECT EXAMINATION

20 BY MS. JAIMEZ:

21 Q Looking at Exhibit 108, Mr. Saul, pulling Exhibit 108 up,  
22 please, you testified that there was a limited date range for  
23 the text messages here; correct?

24 A That's in this exhibit, yes.

25 Q What is the date range?

1 A February 16, 2015, through March 5th, 2015.

2 Q And when was the extraction done? When was this report  
3 created?

4 A On March 6, 2015.

5 Q So does it -- would it surprise you that messages only go  
6 up to March 5th?

7 MR. CHOWDHURY: Objection. Relevance, Your Honor.

8 THE COURT: Overruled.

9 THE WITNESS: No, it does not.

10 Q BY MS. JAIMEZ: And what -- when do you typically have  
11 authority to search phones or cell phones? What are the  
12 different types of authority that you can obtain?

13 A There's a search warrant which is a Court authorizing us  
14 to search it. There's consent which is the owner of the phone  
15 providing consent.

16 Q And in this case, how many phones did you search  
17 altogether?

18 A I personally examined two phones.

19 Q Two phones. Okay.

20 And the defendant's phone, how was it searched? Based on  
21 what authority?

22 A With a search warrant.

23 Q And the victim Donald Burns' phone, under what authority  
24 was it searched?

25 A My understanding -- again, I wasn't there, but my

1 understanding, it was a consent search.

2 MS. JAIMEZ: Thank you, Mr. Saul.

3 THE COURT: May this witness be excused?

4 MR. CHOWDHURY: Yes, Your Honor.

5 THE COURT: All right. We're going to take our  
6 afternoon recess. We'll be in recess for ten minutes.

7 (A recess was taken at 3:26 p.m.)

8 (The following proceedings were held in

9 open court out of the presence of the jury:)

10 THE COURT: All right. All counsel are present.

11 The defendant is present. Let's bring in the jury. Call your  
12 next witness.

13 MS. JAIMEZ: Your Honor, the Government calls  
14 Donald Burns.

15 (The following proceedings were held in  
16 open court in the presence of the jury:)

17 THE COURT: All right. You may call your next  
18 witness.

19 MS. JAIMEZ: Your Honor, the Government calls  
20 Donald Burns.

21 **DONALD BURNS, GOVERNMENT'S WITNESS, SWORN:**

22 THE CLERK: You may be seated.

23 Please state and spell your full name for the record.

24 THE WITNESS: Donald, middle initial A., Burns,  
25 B-u-r-n-s.

1 THE COURT: All right. You may proceed.

2 DIRECT EXAMINATION

3 BY MS. JAIMEZ:

4 Q Good afternoon, Mr. Burns.

5 A Good afternoon.

6 Q Where do you currently reside?

7 A In Palm Beach, Florida.

8 Q Do you live there year-round?

9 A I do not.

10 Q Where else do you reside?

11 A I also live in Nantucket, Massachusetts, and I spend a  
12 small amount of time in La Jolla, California.

13 Q How would you describe the towns that you reside in?

14 A Both as to Palm Beach and to Nantucket, I consider them to  
15 be very small towns with populations ranging from about 8,000  
16 people to 60,000 people.

17 Q Now, do you reside alone or with anyone else?

18 A I reside alone. I ended a long-term relationship a little  
19 bit more than two years ago.

20 Q What do you do for a living, Mr. Burns?

21 A I'm the founder and president of the Donald A. Burns  
22 Foundation, and in addition to that, I'm chairman of the board  
23 of a small public company called magicJack VocalTec, Limited,  
24 and I also manage my own personal development portfolio.

25 Q Now, what did you do before working for magicJack?

1 A I was cofounder and vice chairman of a public company  
2 called Telco Communications Group.

3 Q Now, Mr. Burns, do you know anyone by the name of  
4 Teofil Brank?

5 A I do.

6 Q How do you know him?

7 A I recall that I met him through a gentleman named Myles in  
8 an arrangement that involved paying he and Myles for sex.

9 Q Do you know Mr. Brank by any other name?

10 A I originally knew him also by what I would describe as his  
11 stage name which was Jarec, and then I later came to know him  
12 by what I would also describe as his stage name of  
13 Jarec Wentworth.

14 Q Now, is the person that you know as Teofil Brank or Jarec  
15 or Jarec Wentworth in the courtroom today?

16 A He is.

17 Q Can you point to him and describe for the record what he's  
18 wearing?

19 A Yes. He's at the table on the left in a striped shirt  
20 with a -- the collar buttoned.

21 THE COURT: The record will reflect the witness has  
22 identified the defendant.

23 Q BY MS. JAIMEZ: Now, Mr. Burns, how many times did you pay  
24 the defendant for sex approximately?

25 A Approximately four or five.

1 Q And approximately how much each time?

2 A I recall it was between \$1,500 and \$2,500.

3 Q Besides paying for sex with the defendant, did you have  
4 any other arrangements with the defendant?

5 A Yes. From time to time I paid him to refer other adult  
6 industry or pornographic industry models to me for the purposes  
7 of paying them for sex.

8 Q Now, why did you turn to the defendant for such referrals?

9 A At some point in late 2014, I recall that he promoted to  
10 me that he had wide range in contacts in the adult industry and  
11 that he had excellent skills of persuasion and that he would be  
12 very well qualified to recruit other people from the adult  
13 industry for these pay-for-sex meetings.

14 Q Now, Mr. Burns, why were you engaged in this pay-for-sex  
15 activity?

16 A It was partly a coping mechanism from the loss of my  
17 long-term relationship, but frankly, it was also a way of  
18 engaging in sexual contact without commitment.

19 Q Now, did the referral fee arrangement that you had with  
20 the defendant work out as you planned?

21 A I remember a time -- it didn't ultimately. I remember a  
22 time in January of 2015 where he had arranged a referral for a  
23 gentleman with the first name of Marcin, and I advanced the  
24 defendant approximately \$2,000 to pay him for that referral  
25 arrangement. And the meeting was canceled at the last minute,

1 and I remember a text message exchange where the defendant  
2 announced to me, if you will, that he was not going to return  
3 the \$2,000.

4 Q What was your reaction to the defendant's refusal to  
5 return the \$2,000?

6 A I thought it wasn't the right thing to do, but I don't  
7 recall making a big deal about it, and I certainly didn't take  
8 any steps to recover it.

9 Q And when did all of this happen?

10 A I recall that this was in the January, 2015, time frame.

11 Q Now, did you hear from the defendant again after  
12 January, 2015?

13 A I heard from the defendant again in the middle of  
14 February, 2015.

15 Q And how did the defendant reach out to you?

16 A By text message.

17 Q Now, were those text messages preserved on your phone?

18 A They were preserved on my phone, yes.

19 Q And how was that done?

20 A It was done in two different ways actually. I ultimately  
21 turned my telephone over to an agent at the FBI who's in the  
22 courtroom today and consented to the FBI extracting all of the  
23 text messages on my phone.

24 Q Now, did you turn over the entirety of that phone for  
25 extraction?

1 A I did not.

2 Q Why not?

3 A The phone is filled with my personal financial  
4 information, pictures of my friends and family, tax  
5 information, and it is literally full of attorney/client  
6 communications in matters not relating to this.

7 Q Now, let's take a moment to turn to what's been previously  
8 admitted as Exhibit 108, and let's pull it up on the screen.

9 Do you recognize Exhibit 108, Mr. Burns?

10 THE COURT: It's in the binder if it's easier to  
11 read in paper copy.

12 THE WITNESS: Thank you, Your Honor.

13 Yes, I do recognize this document.

14 Q BY MS. JAIMEZ: And what is it?

15 A If you'll allow me just to look at the rest of the pages,  
16 please.

17 Q Take your time.

18 A (Witness reviewed exhibit.)

19 This report is what I understand to be the results of the  
20 extraction of the text messages that the FBI agent did from my  
21 phone.

22 Q Text messages from what period?

23 A I believe they cover a period -- forgive me just a  
24 second -- from the middle of February -- February 16, 2015,  
25 through March 5, 2015.

1 Q And is it a fair and accurate representation of the text  
2 message exchanges that you had with the defendant in that time  
3 period?

4 A I reviewed this document on more than one occasion now,  
5 and to the best of my ability to determine, it is a fair and  
6 accurate representation.

7 Q And how are the text messages represented in Exhibit 108  
8 based on your review?

9 A They're a little unusual. They go from -- if I could  
10 describe it this way, backwards to forwards. In other words,  
11 the oldest text message is the first, and then it goes  
12 backwards to the newest text message. And they're also in a  
13 time format called UTC which I've come to understand is about  
14 eight hours later than the time here on the West Coast.

15 Q Thank you.

16 Now, looking to page 27 of Exhibit 108 and specifically  
17 item 382, can you please read this text.

18 A This is a text message on February 16 at 6:49 UTC time  
19 p.m. which I understand to be about 10:49 a.m. here on the  
20 West Coast. And it is a text message from the defendant to me,  
21 and it reads, "So another month has passed, and you broke your  
22 word again. Tisk tisk."

23 Q Now, how long had it been since you had last spoken to the  
24 defendant when you received this text message?

25 A It was about a month.

1 Q And what did you think about this message when you  
2 received it?

3 A His first text message, I had no idea what the defendant  
4 was talking about.

5 Q Where were you when you received this first text message?

6 A I was in Vancouver, Washington at an out-of-business  
7 shipyard.

8 Q Did you respond to the defendant?

9 A I did.

10 Q Looking at Exhibit 381, can you note how you responded?

11 A I just sent him back a question mark.

12 Q Did the defendant clarify what he meant after you sent  
13 your question mark?

14 A He did somewhat. He wrote back to me very shortly after  
15 and said, "The car."

16 Q And can you read on through item 379, please?

17 A Yes, I can. And the defendant continued, "How can we work  
18 if trust is broken?"

19 Q And did you respond to this?

20 A I responded in text message 377, "I think we don't have  
21 any working relationship anymore. The \$2,000 advance is an  
22 outstanding issue. You're right that I'm not making a big deal  
23 out of it, but I'm not comfortable working together after  
24 that."

25 Q Now, what did you mean when you said, "The \$2,000 advance

1 is an outstanding issue"?

2 A I thought it wasn't the right thing to do for the  
3 defendant to keep the \$2,000 referral fee related to Marcin.

4 Q And what did you mean when you said you didn't think you  
5 had a working relationship anymore?

6 A Meaning with regard to the defendant looking for other  
7 adult industry models for pay-for-sex arrangements.

8 Q Now, overall, what were you trying to say in this text  
9 message, Mr. Burns?

10 A I was trying to communicate that I didn't think it was  
11 particularly a big deal but that I wasn't anxious in continuing  
12 any kind of arrangement with the defendant to recruit adult  
13 industry models for pay-for-sex arrangements.

14 Q Now, can you read the defendant's response to you in items  
15 376 through 373?

16 A The defendant writes me after that and says, "Be wise on  
17 how you reply. I can bring your house down, Don. This was a  
18 simple conversation, and you throw this shit out at me. Don't  
19 get me mad."

20 And he continues, "I do have a Twitter and your photos.  
21 Lies can be made, or maybe it's the truth. Just saying." He  
22 finishes with, "Have a good day."

23 Q Now, how did you interpret this set of text messages?

24 A They were threatening, but I didn't know where the threat  
25 was going at this point. I knew that Twitter was a social

1 media outlet, and I didn't know particularly at the time what  
2 photos he was talking about. But it frightened me because -- I  
3 guess the best way I could describe it is it was chilling. I  
4 didn't have any idea where it was going from here.

5 Q The defendant writes, "I can bring your house down." How  
6 can the defendant bring your house down, or how did you  
7 interpret this?

8 A The defendant had previously referred in the other text  
9 message to either communicate in truth or lies. The truth that  
10 he knew about me that was so embarrassing and shameful was that  
11 I had been paying for sex.

12 Q And what was it that you were afraid of? What were you  
13 afraid would happen?

14 A I was afraid that he would post that truthful information  
15 to his Twitter account and that that information, with the way  
16 the internet works today, would spread like wildfire.

17 Q Now, why would a posting on the defendant's Twitter  
18 account matter?

19 A We live in a world today where social media outlets like  
20 Twitter are so interconnected with the internet and other  
21 social media outlets that, once a piece of information is  
22 posted on social media, it literally spreads and is almost  
23 impossible to recover. In other words, if something, either a  
24 lie about me were published on social media or an embarrassing  
25 truth, then, even if that was posted for a matter of hours,

1 people could, for example, retweet it. They could blog about  
2 it. They could do any number of things almost instantly, and  
3 you'd never really be able to get that negative information,  
4 whether it was the truth or lie, back.

5 Q Do you think that's true of every Twitter posting?

6 A I think Twitter is one of the social media outlets that is  
7 very viral in nature. In other words, if something is  
8 retweeted, it can spread very rapidly. And also the  
9 defendant's Twitter account was specifically directed to the  
10 adult industry, and that is an industry that I had made  
11 connections in and was paying for sex in.

12 Q Now, did you text the defendant back after receiving this  
13 last set of texts?

14 A I did. I texted in text message no. 372, "Don't  
15 understand why you're always pissed at me. I didn't think you  
16 wanted to ever hear from me again when we last talked." And I  
17 wrote in 371, "I've always been a big supporter of you, but  
18 you're mad at me all the freaking time."

19 Q And now reading through item 370.

20 A And in 370 the defendant responds to me and says, "I guess  
21 you're the emotional one. Do you not read what you say?"

22 Q Now, Mr. Burns, what did you mean when you said you were  
23 always a big supporter of the defendant?

24 A From time to time -- over the period that I knew the  
25 defendant, from time to time he would text me and ask me

1 advice. I remember specifically that he asked me some advice  
2 quite some time ago about legitimate modeling opportunities  
3 outside of the adult industry, and most recently he and I had a  
4 fairly long text conversation when he was struggling with a  
5 landlord tenant and roommate problem in Washington, D.C., and I  
6 directed him to go to the landlord/tenant office and, you know,  
7 did that sort of thing. So if he would ever text me with any  
8 kind of normal life problem, I was generally happy to sort of  
9 give him advice.

10 Q Had you ever provided the defendant with financial  
11 support?

12 A I have not provided the defendant with financial support  
13 outside of the referral fees and the pay-for-sex fees that  
14 we've discussed so far.

15 Q Did you ever promise to provide the defendant with  
16 financial support?

17 A I did not.

18 Q Why did you write that the defendant was, quote, mad at  
19 you all the time?

20 A Well, the last time we spoke, even though he was the  
21 one -- excuse me. I remember. Even though he was the one that  
22 was keeping the \$2,000 referral compensation, he almost seemed  
23 angry at me for canceling the meeting. And so it just seemed  
24 like he was annoyed with me leaving that conversation.

25 Q And did you continue texting with the defendant?

1 A Yes, I did.

2 Q Can you please read items 369 through 368?

3 A In 369 I wrote to the defendant and said, "Happy for you  
4 to have the dough, but don't want people pissed off at me all  
5 the time. That's why I haven't bothered you since we last  
6 chatted."

7 Q What "dough" are you talking about here?

8 A The \$2,000 referral fee in the January time frame of 2015.

9 Q And why hadn't you, quote, "bothered" with the defendant?

10 A Because I just didn't want to make a big deal out of it  
11 with him. It wasn't something that I thought was worth a fight  
12 over.

13 Q And how did the defendant respond to you in items 367  
14 through 365?

15 A He writes back to me -- the defendant writes back to me in  
16 text message 367 and says, "You're not nice. You are a rude,  
17 self-centered narcissist. I was only trying to be a friend and  
18 throw you boys, but you argue with me over little things and  
19 expect me to take it? You of all people know I bite when  
20 someone corners me." Then he continues, "You didn't hold your  
21 word twice on the car, and that gets me upset. Trust is what  
22 works, and you break them. Maybe you need a taste of it."

23 Q Now, how did you interpret these text messages?

24 A Working backwards from 366 about the car, I still at this  
25 point had no idea what promises he was talking about related to

1 any car. In the text message below, where he says, "You of all  
2 people know I bite when someone corners me," I assumed it  
3 referred back to the landlord/tenant/roommate challenge that he  
4 had in Washington.

5 Q Did you have any idea what car he's referring to here?

6 A I still did not know what car or what promise about a car  
7 he was referring to in this text message.

8 Q And what is defendant referencing or how did you  
9 understand his reference to, quote, "throwing you boys"?

10 A He was talking about referring adult industry models for  
11 pay-for-sex arrangements.

12 Q And when you say "adult industry models," who are you  
13 referring to?

14 A Pornographic models, men that perform in the pornographic  
15 industry targeted to gay audiences.

16 Q Now, looking again at the text message, how did you  
17 interpret defendant's statement "Maybe you need a taste of it"?

18 A Again, this is sort of a layering on of a threat, but I  
19 don't know where the threat is going. My anxiety level is  
20 rising, and my fear level is rising, but I still really can't  
21 imagine where this text message series is going.

22 Q And what was your response in items 364 through 363?

23 A I write to the defendant in a text message, "Don't want  
24 you cornered. Want you happy. The Boston person didn't do the  
25 right thing. I'm the only one that's worse off. It's okay to

1 talk to each other about differences and challenges without  
2 either of us being cornered." And I continue, "If you're  
3 pissed at me, I have no problem with" -- excuse me. "If you're  
4 not pissed at me, I have no problem hanging out. Just thought  
5 you weren't interested in being around me."

6 Q Now, to clarify, who is this Boston person you're  
7 referring to?

8 A This is the adult industry model I referred to with the  
9 first name of Marcin.

10 Q And what were you trying to communicate in these text  
11 messages?

12 A I was trying to communicate, if this text message series  
13 had started out in a normal way between friends or  
14 acquaintances, that I would have done the same thing. In other  
15 words, I didn't know that any animosity existed or had been  
16 created.

17 Q What did the defendant write back to you in items 362  
18 through 361?

19 A In 361 he writes "IDC," which I understood to mean I don't  
20 care, "about the Boston kid. You and I have issues to work  
21 out. I have the plug of the guys, and I know how to convince.  
22 You know if I don't want to talk to you. We had a longer  
23 period of that already. I enjoy your company and will milk the  
24 fun out of you, LOL," which I took to mean laugh out loud.  
25 "Only Cuzco, you know, the good life."

1            "I only want to learn from you," in the next text message.  
2    "You have brains and experience. I'm a man who seeks  
3    knowledge."

4    Q        What did you think about the tone of these text messages?

5    A        They were strange because he seems to be saying, oh, well,  
6    the Boston kid thing wasn't important to me either. I just  
7    sort of wanted to hang out with you. Then in the next text  
8    messages he's talking to me like a mentor.

9    Q        The defendant also says "you and I have issues to work  
10   out" near the beginning of the exchange. What did you think  
11   about that reference?

12   A        I really don't know. Other than the \$2,000 related to  
13   Marcin's referral, I didn't know what other issues, if any, we  
14   had to work out.

15   Q        What was your response in item 360?

16   A        I wrote in 360 back to the defendant, "Yeah, I agree, but  
17   I don't want to walk on eggshells with you. We should be able  
18   to have a disagreement and be cool with each other."

19   Q        What happened in items 359 through 355?

20   A        In 359 -- text message 359, the defendant writes me, and  
21   he says, "It's been that way. Then I hear your excuse." In  
22   quotes, "'I don't think you wanted to talk to me,'" end quote.  
23   "Wow, really. And I'm the one here bugging you."

24            In 358 he says, "You promised me you would let me drive  
25   the r8. Cars are my life. You know that."

1           And he continues in the next text message, "Show I'm  
2 nothing to you. Promises broken." And then he writes, "I'm  
3 feeling evil right now. And disappointed."

4 Q       Now, how did you understand the defendant's reference to,  
5 quote, "the r8"?

6 A       Well, I finally understood that he was talking about an  
7 Audi automobile that I own in La Jolla, California.

8 Q       What do you mean he was talking about an Audi automobile?

9 A       He was talking about the car I own in La Jolla,  
10 California, but I still wasn't clear on what promise that he  
11 thought I made with regard to that car.

12 Q       And how did you interpret the set of text messages  
13 generally?

14 A       They were odd actually. Again, because this -- there's  
15 been some very threatening talk thus far, and these again were  
16 a little bit more like, oh, I just wanted to hang out with you.

17 Q       Now, defendant uses the language "I'm feeling evil right  
18 now." Had he ever used that language with you before?

19 A       I hadn't heard him say that before.

20 Q       What did you think of this reference?

21 A       At this point my anxiety level is rising almost with every  
22 text because, again, I can't -- I can't picture where this text  
23 conversation is going. It sort of went from an anxiety about  
24 him posting true or false -- excuse me -- true or false  
25 embarrassing information on Twitter about me to me feeling,

1 even from a personal level, frightened and unsafe.

2 Q Now, did you respond?

3 A I did.

4 Q Can you read items 351 through 350 now?

5 A I wrote to the defendant, "Dude, you're so pissed. You're  
6 talking about blowing me up in Twitter. Remember, I tracked  
7 you down because I liked your energy and we have had fun  
8 hanging out. If we annoy each other, then we should call each  
9 other assholes and put it behind us. Not all this bad energy.  
10 Right?" And, I'm sorry. They're duplicates. These two are  
11 duplicates in 352 and 355.

12 Q Read on to the next, 350.

13 A In 350 I text to the defendant, "I didn't even know you  
14 were talking about the r8. Next time I'm in town for a few  
15 days, it's a deal. I just haven't been back."

16 Q Now, how did the defendant respond to your, quote, "Put it  
17 behind us" text message looking at items 349 through 347 now?

18 A The defendant texted me at about -- continuing on 2/16, he  
19 writes to me by text message, "Check my Twitter. The  
20 conversation will grow, and questions will be asked. You lied  
21 to me, and now you're treating me like shit. I asked again,  
22 and you put it behind you. Now it's biting your ass. I think  
23 it's time -- I think by the time I'm out of the gym, you will  
24 have a sweet treat for me that will make me erase my tweet."

25 Q Can you go back and reread item 349?

1 A Okay. The defendant texted me at 349, "Check my Twitter.  
2 The conversation will grown, and questions will be asked. You  
3 lied to me and treated me like shit. I asked again, and you  
4 put it behind you. Now it's biting your ass."

5 Q What did you think about this message?

6 A I could only draw the conclusion that he posted something  
7 embarrassing or intended to embarrass me or frighten me on his  
8 Twitter feed.

9 Q Now, in the following text message the defendant  
10 references a sweet treat that would make him erase his tweet.  
11 What did you think he was referring to here?

12 A I assumed he was going to ask me for something in exchange  
13 for removing the tweet, but I can't testify that I knew exactly  
14 what he was going to ask me for here.

15 Q So did you check your Twitter or did you check the  
16 defendant's Twitter page as he directs you to here?

17 A I was in an out-of-business shipyard that had very poor  
18 cell service, and I wasn't able to be on Wi-Fi; so I actually  
19 couldn't look at Twitter. I need to clarify I'm not a Twitter  
20 user either. So I called a mutual associate of the defendant  
21 and mine by the name of Justin Griggs, and I asked Justin to  
22 check the defendant's Twitter feed to see if he had posted  
23 something about me.

24 Q And did Mr. Griggs check the Twitter account?

25 A He did.

1 Q Did he find anything?

2 A He did. There was apparently a text message -- excuse me.  
3 A text message -- a tweet posted by Jarec Wentworth's Twitter  
4 account, and I recall, without specifically looking at it, it  
5 said "Do any porn stars know a guy named Don?" with a follow on  
6 that said, to the best of my recollection, "Yes, Don."

7 Q Now, did you ever receive a copy of this tweet?

8 A When I first spoke to law enforcement officials, I  
9 couldn't remember whether or not I had actually seen the tweet  
10 or Mr. Justin had simply told me the tweet existed and  
11 described it to me. I subsequently recalled that I did see the  
12 tweet and that Justin did send me the tweet.

13 Q How did you see the tweet?

14 A I saw the tweet on my iPhone.

15 Q How is it possible that you could have forgotten a tweet  
16 that created so much anxiety for you?

17 A Precisely because, when I first saw it, I deleted it  
18 within literally moments of seeing it because it made me a  
19 little bit sick to my stomach, and at this point my hands were  
20 shaking even communicating with the defendant by text message.

21 Q Now, looking at what has been previously admitted as  
22 Exhibit 115, which will appear before you on the monitor as  
23 well, do you recognize this item?

24 A Yes, I do.

25 Q What is it?

1 A This is the tweet that I recall that Justin sent me.

2 Q And how do you know that?

3 A Because it's fairly burned in my mind at this point.

4 Q What was going through your mind when you saw this tweet  
5 on your phone?

6 A I took this as the defendant proving to me that he fully  
7 intended to do something more than this if I didn't have  
8 whatever he decided -- whatever the sweet treat was by the time  
9 he got out of the gym.

10 Q Why would an innocuous post saying "How many porn stars  
11 know a man named Don?" be threatening?

12 A Because I was paying adult male porn stars for sex.

13 Q So what were you afraid of specifically with respect to  
14 this Twitter account?

15 A I think the defendant put it best. He said something to  
16 the effect of "The questions will be asked, and the  
17 conversation will grow."

18 Q Now, by the time you saw this tweet, what did you think  
19 was happening?

20 A I was clear at this point, in my mind at least, that the  
21 defendant was threatening me with ruining my reputation.

22 Q And at this time did you know how many Twitter followers  
23 Jarec Wentworth or the defendant had?

24 A I'm not sure that I recall how many he had. I may have  
25 heard him refer to that in the past, but I don't know that I

1 knew at this particular moment how many followers he had.

2 Q Did you have an opinion about the number? Did you think  
3 there were many? Few?

4 A I had an opinion --

5 MS. AHMAD: Objection, Your Honor. Calls for  
6 speculation.

7 THE COURT: The objection is overruled. You may  
8 answer the question.

9 THE WITNESS: I believed that he was a very popular  
10 adult industry star and that he had many fans.

11 Q BY MS. JAIMEZ: Did the defendant text you anything else  
12 after posting this tweet?

13 A He did.

14 Q Can you please read items 345 through 344?

15 A I'm turning to page 25 in the exhibit.

16 THE COURT: What's the exhibit number again we're  
17 dealing with?

18 MS. JAIMEZ: Exhibit 108.

19 THE COURT: All right.

20 THE WITNESS: At text message 345, the defendant  
21 writes me and says, "I can't get a friendship anymore because  
22 who will want to be friends with blackmail? I only wanted to  
23 drive the cars and enjoy your company. I guess finding you  
24 boys is out of the picture; so it leaves me with nothing to  
25 want out of this. So I'm just going to bite hard. You got

1 money, but I don't want that. Money won't wash away what  
2 people will read and see of you. Wow, I guess I hold all the  
3 cards now."

4 And he says in text message 344, "And trust me, the other  
5 guys will stand with me."

6 Q And to clarify, how did you interpret "throwing you boys"?

7 A Again, that was the referral arrangement whereby, if he  
8 referred someone to me for a pay-for-sex arrangement that was  
9 an adult male model, then, in fact, I would pay him  
10 compensation for it.

11 Q And what were you thinking when you read the word  
12 "blackmail" in his text message?

13 A Well, I mean, I don't know whether that exact word had run  
14 through my head. I might have thought of extortion. I'm not  
15 entirely sure of the difference between the two. But, again,  
16 now things are becoming crystal clear at this point that he  
17 absolutely intends to follow through with posting truthful  
18 embarrassing shameful information about me or lying about me  
19 using his Twitter feed.

20 THE COURT: And what dates are we referring to now?

21 THE WITNESS: We are still, Your Honor, at  
22 February 16.

23 THE COURT: All right.

24 Q BY MS. JAIMEZ: So taking what you've just said then, how  
25 do you interpret his reference in the text message, quote, "I

1 don't want money"?

2 A I thought it was bizarre. Remember, I'm thinking now that  
3 the sweet treat request was coming, but now I'm actually  
4 confused because it seems completely at odds with wanting  
5 something to take his tweet down, maybe he meant property as  
6 opposed to money. But again, I'm sort of back in the dark at  
7 this point.

8 Q And who are the other guys that will, quote, stand with  
9 the defendant?

10 A I'm assuming that he's referring to other male models that  
11 he was aware that I had paid for sex.

12 Q Did you continue to communicate with the defendant after  
13 receiving this message?

14 A Yes, I did, Ms. Jaimez.

15 Q Can you read what happened in items 342 through 341?

16 A In 342, I explained by texting to the defendant, "Teo, I  
17 can't call right now, but please let me know what you want to  
18 do -- what you want me to do. Please take down posts about  
19 me."

20 And he responds immediately with, "What are you offering?"

21 Q So what did you think when defendant says, quote, "What  
22 are you offering?"

23 A We're back out of the murky area now, and now he's  
24 essentially got his hand out and wanting to know what I will  
25 give him to take that tweet down.

1 Q Did you think about making an offer at that point?

2 A I didn't.

3 Q What happened in the next few items, specifically 340  
4 through 337?

5 A I texted the defendant at item no. 340, "Look, man, just  
6 tell me. I want this behind us."

7 The next text is at 339, "We've known each other too  
8 long."

9 And then he texts, "Oh, boy, Str8upgayporn is on it. He  
10 favored it."

11 Q Now, how did you interpret this last part, quote,  
12 "Str8upgayporn is on it"?

13 A I had presumed that the item had been retweeted by the  
14 editor of Str8upgayporn or someone associated with that blog  
15 which covers the adult or pornographic industry.

16 Q And how did you feel about this possible retweet at this  
17 point?

18 A It's precisely as I described earlier in my testimony.  
19 The internet is something that, once information is posted to  
20 it, spreads exponentially and very quickly, and it was actual  
21 concrete demonstration that, within moments of the defendant  
22 posting something referencing me, that it was already beginning  
23 to travel across the internet.

24 Q Now, you say in your text message, "Look, man, just tell  
25 me. I want this behind us."

1           What are you trying to say here?

2   A       I'm trying to say, if you want a sweet treat, you have to  
3       tell me what the sweet treat is because I have no idea what you  
4       want from me.

5   Q       And why are you willing to comply so quickly at this  
6       point?

7   A       Precisely for the reason that the defendant is pointing  
8       out to me that, moments after he has posted a reference to me  
9       on Twitter, that other people are taking note of it and  
10      repeating the information or reposting the information. And I  
11      feel as if -- again, this is all something not unique to me.  
12      This is what I feel about the internet broadly and social media  
13      that, once someone posts information, truthful or lie, that it  
14      spreads like wildfire on the internet.

15           So I wanted to note what he needed from me, what he was  
16      demanding from me in order to take down his tweet.

17   Q       Now, as you're receiving all of these messages, did you  
18      ever consider just calling the defendant?

19   A       I did consider calling the defendant.

20   Q       And did you do so?

21   A       I ultimately called him around lunchtime I believe.  
22      Lunchtime here on the West Coast.

23   Q       Okay. And were you able to immediately get through to  
24      him?

25   A       Excuse me. The first time I tried to call him I believe I

1 was in the shipyard and was not able to get through to him  
2 then. I ultimately did reach him around lunchtime when I  
3 realized it was a bank holiday that day.

4 Q Now, going back before the phone call, can you look at  
5 item 334 on page 25.

6 A At item no. 334, I asked the defendant, "Do you want me to  
7 call or not? I have fucked up cell service."

8 Q And then what happened in items 333 through 322?

9 A The defendant writes me, "I want a new car, motorcycle,  
10 and both hands full of cash."

11 And then in 332 he makes it clear, if he gets those  
12 things, then he will erase it and you.

13 Q And reading on through 322.

14 A At item 321 I say -- I say, "So how do you want it?  
15 Agreed. I can't do that this second." I said to the  
16 defendant, "Give me your dollar sign." I meant in that text  
17 message give me your bank information. And then in 329 I asked  
18 the defendant if -- "Do you want me to call you or not? I have  
19 fucked up cell service."

20 He responds back, "Then I'll erase it." In 327 he says,  
21 "The r8 and \$250,000."

22 Q And can you read your response?

23 A He continues actually on that point in a text message,  
24 "Have the money in the care with the title. Simple." I  
25 presumed "care" to mean "car." He tells me to make my calls.

1           And in 324 I asked the defendant, "Send me your ABA and  
2 account number, and I'll send the money by wire. Go pick up  
3 the car today before 6:00. You know I have to do what you  
4 want."

5 Q       Now, what did you mean when you say, "You know I have to  
6 do what you want"?

7 A       I have no bargaining position here. I have no bargaining  
8 power. We're not sort of having a normal negotiation between  
9 two people. He can write whatever he wants whenever he wants  
10 without limitation on Twitter or for that matter any other  
11 social media platform, and I don't have any way to stop him at  
12 this point.

13 Q       And can you read the following two text messages on top of  
14 the screen here?

15 A       I write to the defendant, "Mary will be there until 6:00  
16 to give you the car. You'll have the fed funds confirm number  
17 within a short time of me getting your info. Happy for you to  
18 change your mind, but I'll do it."

19 Q       Now, how did you interpret the defendant's reference to,  
20 quote, "the r8 and 250,000"?

21 A       I believed he meant that he wanted my r8 Audi automobile,  
22 which I only own at La Jolla, California, and \$250,000 cash.

23 Q       And what was the Audi r8 worth at this time?

24 A       Approximately \$180,000.

25 Q       Now, you reference a person by the name of "Mary." Who is

1       she?

2   A     Mary works for me at my La Jolla, California house.

3   Q     Now, as you're communicating with the defendant in these  
4 text messages, what's going through your mind?

5   A     I'm panicked. It's difficult for me to type on my iPhone.  
6 Text message service is even a little spotty from time to time.  
7 And I'm -- there's no other way to describe it. I'm scared to  
8 the core of what he's going to write about me on Twitter.

9   Q     And what time approximately was it when you sent these  
10 text messages?

11   A     I believe at this point we are approaching noon West Coast  
12 time.

13   Q     Did anything of note happen after you had these text  
14 message exchanges?

15   A     I reached the defendant by telephone call.

16   Q     And what happened during the telephone call?

17   A     I realized I had to call him because I had promised him  
18 a -- and I was at a lunch place at this point called Beaches in  
19 Vancouver, Washington. So I had regular cell service at this  
20 point. And I called him, and I told him that I had realized it  
21 was a bank holiday and that there was no way I could send him  
22 money on that day in any way.

23   Q     What was his reaction?

24   A     His reaction was on the telephone, "If you don't get me  
25 the cash today, then you need to give me \$500,000 tomorrow."

1 Q So were you ever able to find out a way to get the cash to  
2 the defendant?

3 A I was never able to get him cash. I think perhaps he  
4 thought I had cash laying around my home, but I always  
5 explained that I needed his bank information to send a wire  
6 transfer.

7 Q And did the defendant provide you with his bank  
8 information?

9 A He did.

10 Q Can you look at item 310 and read it for the jury, please?

11 A The defendant texted me a text message that reads as  
12 follows: "Routing no. 121000248 and accredited number," which I  
13 took to mean account number, "8110313197." Then I believe I  
14 texted him, "Hold on."

15 Q And did the defendant ever tell you whose name was  
16 associated with that account information he sent you?

17 A He did.

18 Q Looking at items 308 through 307.

19 A Forgive me for getting ahead.

20 I texted him at item number 308 a question stated,  
21 "Teofil Brank account name?"

22 And he responded almost immediately at line 307 with  
23 "Yes."

24 Q Mr. Burns, did you wire the \$500,000 demanded?

25 A I did. It was wire transferred with the first morning's

1 business the next business day.

2 Q When was that?

3 A That would have been February 17.

4 Q And why were you willing to wire so much money?

5 A Because we've talked about it about three times in  
6 testimony so far. Every minute that that text message  
7 stayed -- excuse me -- text message. Each minute that that  
8 tweet stayed in the public domain, it was going to be literally  
9 by the minute harder to retract it.

10 Q Now, from what account did you wire the money?

11 A My primary brokerage account at Goldman Sachs & Company.

12 Q Let's take a moment to look at Exhibit 105 which has been  
13 previously admitted into evidence.

14 Looking at the last page, do you recognize Exhibit 105?

15 A Ms. Jaimez, let me just look at the exhibits so I make  
16 sure that I recognize it.

17 (Witness reviewed exhibit.)

18 This is Goldman Sachs brokerage statement from the period  
19 ending February 28, 2015, and I do recognize it.

20 Q And what is happening on the last page of this exhibit?

21 A On the last page there's a lot of blackout, but there's a  
22 single line that demonstrates or records rather a wire transfer  
23 in the amount of \$500,000 to Teofil Brank, and it also gives  
24 some bank information Wells Fargo.

25 MS. JAIMEZ: At this time, Your Honor, the

1       Government will read the parties' stipulation at Exhibit 501.

2                   THE COURT: All right.

3                   (Marked for identification Exhibit No. 501.)

4                   MS. JAIMEZ: Plaintiff United States of America and  
5                   Defendant Teofil Brank, defendant, individually and by and  
6                   through counsel hereby stipulate to the following fact:

7                   On February 17, 2015, Donald Burns wired defendant  
8                   \$500,000 from Mr. Burns' Goldman Sachs account located in  
9                   New York to defendant's Wells Fargo account located in  
10                  California, and thus the \$500,000 traveled in interstate  
11                  commerce."

12                  THE COURT: Is that the stipulation of the  
13                  defendant?

14                  MS. AHMAD: I'm sorry, Your Honor?

15                  THE COURT: You entered into that stipulation?

16                  MS. AHMAD: Yes, Your Honor.

17                  THE COURT: All right. I will instruct the jury  
18                  that the parties have agreed to certain facts that have just  
19                  been read to you, and you should therefore treat these facts as  
20                  having been proved.

21                  THE WITNESS: Your Honor, forgive me for asking you,  
22                  but is it possible to get a glass of water?

23                  THE COURT: Of course.

24                  THE WITNESS: Thank you.

25 Q                BY MS. JAIMEZ: Now, Mr. Burns, if you hadn't wired the

1 \$500,000, where would you have used that money?

2 A The most likely use of that --

3 MS. AHMAD: Objection, Your Honor. Relevance.

4 THE COURT: Overruled.

5 THE WITNESS: The most likely destination for that  
6 cash would have been the business project that I have going  
7 on -- thank you very much -- the business project I have going  
8 on in Vancouver, Washington which is building a ship for  
9 profit.

10 Q BY MS. JAIMEZ: Now, turning to what's been previously  
11 admitted as Exhibit 128, take a moment to examine that exhibit.

12 A (Witness reviewed exhibit.)

13 Q And if we could blow it up.

14 | What is Exhibit 128, Mr. Burns?

15 A Exhibit 128 is a collection of documents that I recognize  
16 as being issued by the state of Delaware which memorialized the  
17 formation of my company -- the company that I control called  
18 Marine Investco, Limited Liability Company.

19 Q Is this the company you just mentioned previously?

20 A Yes. This company is developing a ship in Vancouver,  
21 Washington for profit.

22 Q Now, did the defendant ever recover or obtain the Audi r8  
23 mentioned in the text messages, to your knowledge?

24 A To my knowledge he did.

25 Q Now, taking a moment to turn now to -- in your binder to

1       Exhibit 146 and 148, please take a moment to turn there.

2       A       Ms. Jaimez, I'm at 146.

3       Q       And 148 as well.

4       A       (Witness reviewed exhibit.)

5               I've reviewed 147, and I'm now looking at 148.

6       Q       Okay. Considering just exhibits 146 and 148, what are  
7       these exhibits?

8       A       Exhibit 146 is a picture of an Audi r8 that looks very  
9       similar to mine.

10      Q       And Exhibit 148, what is it?

11      A       In 148 I'm confident in saying that this Audi r8 is my car  
12       because I recognize the Florida license plate on the rear.

13               MS. JAIMEZ: Government moves exhibits 146 and 148  
14       into evidence.

15               THE COURT: They're already in.

16               MS. JAIMEZ: Permission to publish, Your Honor.

17               THE COURT: Yes.

18      Q       BY MS. JAIMEZ: Now, blowing up Exhibit 146, when did the  
19       defendant pick up your Audi r8?

20      A       I recall that it was in the afternoon of February 16.

21      Q       And where did he pick it up from, to your knowledge?

22      A       To my knowledge, he picked it up at my home in La Jolla,  
23       California.

24      Q       What did you think that your \$500,000 wire and turning  
25       over this car would accomplish?

1 MS. AHMAD: Objection, Your Honor. Asked and  
2 answered.

3 THE COURT: Overruled.

4 THE WITNESS: I believed that the defendant had  
5 promised, when he had the \$500,000 and when he had possession  
6 of the car and the title, that -- excuse me. Not the title  
7 specifically -- and the car, that he would take the tweet that  
8 he had posted that referenced me down.

9 Q BY MS. JAIMEZ: And did it work initially?

10 A Yes. Initially it did work.

11 Q How do you know?

12 A It's a very difficult thing for me to recall, and I'm  
13 actually not able to determine with certainty that I checked at  
14 that moment. I just ultimately came to learn that he took the  
15 tweet down.

16 Q So turning back to Exhibit 108, the text messages and  
17 looking at items 244 through 240, can you please read those  
18 items?

19 THE COURT: Let's get a date for these items. I  
20 think it's helpful to put it in chronology.

21 THE WITNESS: And, Ms. Jaimez, one more time, an  
22 item number, please.

23 Q BY MS. JAIMEZ: 244 through 240, please.

24 And if you could provide the date of these texts.

25 A On February 17 -- excuse me. Forgive me. You wanted me

1 to start at which item, Ms. Jaimez?

2 THE COURT: 244.

3 THE WITNESS: Thank you, Your Honor.

4 I texted defendant, "Can you please take post down? You  
5 have car and title tomorrow."

6 And the defendant responded, "Yes."

7 I responded with, "Thank you."

8 And he responded at text message 241, "Like we promised."

9 And at 240, "Done."

10 Q BY MS. JAIMEZ: And the date of these again?

11 A This is February 17, and it's approximately 8:30 in the  
12 morning West Coast time.

13 Q Now, after having these text communications, did you  
14 continue to communicate with the defendant?

15 A Yes, I did.

16 Q About what?

17 A The defendant immediately at -- after promising to take  
18 the tweet down for \$500,000 and the Audi r8 automobile, he  
19 immediately texted me at line 239 and says, "I want insurance  
20 for one year on the r8."

21 Q How did you respond in item 236?

22 A I want to continue if you don't mind, Ms. Jaimez. He  
23 clarifies in a text message, "Full," which I assumed was full  
24 coverage insurance. "And then we part" in his final text  
25 message in that series.

1           I pushed back on this request by writing the defendant and  
2 saying, "Teo, you have a half a million dollars. You can have  
3 any insurance you want. Why are you doing this to me after  
4 I've lived up to everything you wanted?"

5           And he responded after that in a text message, "I have to  
6 pay taxes, Don."

7 Q        How did you feel about the defendant's request for  
8 insurance?

9 A        I thought it was crazy considering that he had just  
10 threatened me, that he had made a series of promises that, if I  
11 did what he asked, that he would take that tweet down. And  
12 almost instantly he had his hand out again with an implied  
13 threat that now I need this extra. Then we're done.

14 Q       At this point did you have any interest in providing  
15 insurance?

16 A       I did not.

17 Q       Besides discussing insurance in the text messages, did you  
18 discuss anything else?

19 A       He -- excuse me. The defendant at line 235 tells me, "I  
20 have to pay taxes, Don." And then 234, "Unless you'd like to  
21 make it up in cash."

22           And I said to him, "No, you don't. I have to pay gift  
23 taxes. Your money is freaking tax free."

24 Q       And what else is discussed specifically in items 226  
25 through 217 on page 22 of 108?

1 A In 226 I am starting a conversation to hand over the title  
2 to the Audi r8 to the defendant, and I write him that "Florida  
3 says no power of attorney because owner needs to sign for  
4 odometer miles. I'm just hanging out for delivery now. If  
5 package doesn't show up last delivery, we can regroup and  
6 figure out the plan. "I'll show up" -- excuse me. "I'll need  
7 odometer miles when I get the title in my hands, but don't give  
8 it to me yet because Florida and California will be freaks  
9 about accuracy. Like I said, I have delivery notification set  
10 up; so you can track also. We're doing a final check with  
11 California DMV to see if we can get any better answer."

12 I follow up to the defendant a text message 225 reporting  
13 to him, "Got it. Odometer reading, address, and driver's  
14 license information." And he starts asking me in the next text  
15 message, "Why do you need the info? Just sign and mail."

16 Q And how do you respond?

17 A I respond by texting the defendant, "I'll send you a pic.  
18 Top gets buyer info to be filed with issuer Florida so they  
19 release to new issue. Address is really where you want to have  
20 it sent" -- excuse me. "Address is really where you want it  
21 sent." In parentheses, "but is required on same tear off.  
22 Odometer reading on front part. Want a pic?"

23 The defendant texts back, "Yes."

24 And then I texted the defendant, "Hold on a minute." And  
25 then I sent the defendant a series of text photographs to prove

1 to him that the title requires this information.

2 Q Now, what prompted this conversation, Mr. Burns?

3 A He was reluctant to -- well, he refused to give me the  
4 information to fill out on the car title that the seller needed  
5 to tear off and give to the state of Florida as it was a  
6 Florida car title so the actual change in ownership of the car  
7 could happen.

8 Q Now, why are you so concerned about a clean title  
9 transfer?

10 A He's had my car for several days right now, and while it  
11 didn't occur to me at first, on a human level and on a  
12 financial level both, I started to become concerned about him  
13 hurting himself or killing himself or hurting or killing a  
14 bystander with my car. That would have taken a human toll on  
15 me in addition to making me absolutely financially liable for  
16 anything he did in my car.

17 Q And what did you send the defendant in these last few  
18 texts, one of three, two of three?

19 A I sent him several pictures of the Florida title to  
20 demonstrate to him that I wasn't fishing for information, that,  
21 if he wanted the car retitled, that he would need to provide  
22 this information and let me have it so I could file it in  
23 Florida.

24 Q Now turning to what's been previously admitted as  
25 exhibits 136 through 138, take a moment to turn there,

1 Mr. Burns.

2 A Ms. Jaimez, would you like me to look at all three at one  
3 time?

4 Q Yes, please.

5 A (Witness reviewed exhibits.)

6 Okay. I'm familiar with them.

7 Q What are these items?

8 A These are the photographs that I sent the defendant of the  
9 actual Florida title and the section of the title that I was  
10 asking for his assistance in completing.

11 Q Looking specifically at 136, what do you say in this  
12 message?

13 A The body of the message takes three of three, "Price will  
14 say 'gift,'" in capital letters.

15 Q Who wrote this?

16 A I did.

17 Q Why did you write "gift"?

18 A Because it's the only way that we were aware of that one  
19 could transfer the title of a car when no money had exchanged  
20 hands.

21 Q Was this a gift?

22 A It was absolutely not a gift.

23 Q Now, did you ever give the defendant authorization to  
24 drive the Audi?

25 A Yes. In the telephone call that we had on the Monday that

1 was the bank holiday which I believe was February 16, he  
2 demanded from me a signed letter that would give him  
3 authorization to operate the automobile, and I explained to him  
4 that at this out-of-business shipyard I didn't have any  
5 resources to create a letter, sign it, and fax it or pdf it.  
6 So I told him the best I could do is send him an e-mail  
7 authorization to authorize him to operate the motor vehicle.

8 Q So turning to what's been previously admitted as  
9 Exhibit 132, what is this item?

10 A I'm familiar with this item, and it is the e-mail that I  
11 sent to the defendant at approximately -- excuse me. It's at  
12 approximately 12:43 p.m. West Coast time on February 16. It  
13 says, "To whom it may concern, Teofil Brank is authorized to  
14 drive the Audi r8 Florida tag number AHF185. Yours truly,  
15 Don Burns."

16 Q Why did you send this e-mail?

17 A It was a demand from him as part of the e-mail.

18 Q Mr. Burns, looking back, what details specifically were  
19 you so concerned the defendant would make public?

20 A Absolutely that I had been paying for sex with adult male  
21 models.

22 Q Can you describe the details of that pay-for-sex  
23 arrangement that you had?

24 A From every three to six weeks, I would fly adult male  
25 models from the pornographic industry to my home, and we would

1 have sexual contact with each other, and generally they would  
2 spend the night, and they would be paid for their services, and  
3 they would fly home typically the next late morning or early  
4 afternoon.

5 Q And when did this practice start approximately?

6 A I first recall it starting in the early 2013 time frame,  
7 perhaps March or April.

8 Q And how many people would come to these meetings?

9 A I recall the first time was two, but there could be  
10 anywhere from one additional persons to four additional people.

11 Q And how much would you pay these individuals?

12 A I estimate between 1,500 and \$2,500 per person.

13 Q And how would you pay them?

14 A Typically in cash.

15 Q How would you recruit people for these meetings?

16 A If I met a male model that worked in the industry, they  
17 would typically have the opportunity to refer a friend or  
18 associate in the adult industry, and in many cases I offered to  
19 pay them a referral fee.

20 Q So what could one earn in total for attending your meeting  
21 and bringing a friend?

22 A 1,500 to \$2,500 for sexual contact and then another \$1,500  
23 to \$2,500 for a referral fee.

24 Q Why would you recruit people for these meetings in this  
25 referral fee manner?

1 A Because I felt as if it was a very discrete way to engage  
2 in this activity.

3 Q And what type of people typically came to these sexual  
4 liaisons?

5 A They were typically people that were current performers in  
6 the adult or pornographic industry.

7 Q So was the defendant the first person that ever recruited  
8 for you?

9 A I do not think he was.

10 Q Would other people recruit for you on a regular basis?

11 A Yes. I don't know that I would characterize it as a  
12 regular basis, but there certainly were other people that were  
13 paid referral fees.

14 Q Now, was your referral fee arrangement with the defendant  
15 exactly like every other arrangement, or was it slightly  
16 different?

17 A It was slightly different.

18 Q How was it different?

19 A We may have talked about it earlier. Come late 2014, I  
20 remember the defendant promoting to me his connections in the  
21 industry and his persuasive powers. I ultimately provided him  
22 an e-mail list of people in the industry that I would be  
23 interested in meeting with.

24 Q Now, turning to what's been previously admitted as  
25 Exhibit 119, take a moment to turn there if you'd like.

1 A I'm there, Ms. Jaimez, and I recognize the document.

2 Q What is Exhibit 119?

3 A It's an e-mail that I sent the defendant on  
4 September 27, 2014.

5 Q How did this e-mail come to be?

6 A This was in response to the defendant promoting to me his  
7 industry contacts and as well his persuasive powers. And I  
8 simply went on a popular adult website called Seancody.com and  
9 sent him Facebook information, and to the extent that it was  
10 available on the internet or through some other form, contact  
11 information for them, and I listed a referral fee opportunity  
12 for any particular referral.

13 Q How many referrals are noted here on Exhibit 119?

14 A There are 11.

15 Q And what specifically are you asking defendant to do here?

16 A To recruit any one of these models for a pay-for-sex  
17 arrangement.

18 Q And who would receive payment if all of these referrals  
19 took place?

20 A The individual adult models would receive payment if they  
21 were involved in a pay-for-sex arrangement, and the defendant  
22 would receive a referral fee.

23 Q What would the total cost or exposure be if every single  
24 one of these referrals took place?

25 A I think I've looked at it, and it's about \$50,000.

1 Q Why were you willing to commit so many resources to this  
2 endeavor?

3 A I really never looked at it as a \$50,000 exposure because  
4 I thought it was highly unlikely that the defendant or,  
5 frankly, anybody would be able to recruit more than, you know,  
6 two or three of these people for a pay-for-sex arrangement.

7 Q Now, looking at Exhibit 119, what is the most amount of  
8 money the defendant could have earned if every single one of  
9 these referrals came to be?

10 A I characterized it -- I would characterize it as an  
11 estimate. It's in the subject line which is \$22,000. But I  
12 can't testify that I have added up all the numbers, but I  
13 believe that's 11 times \$2,000.

14 Q Now, did any of these meetings actually occur?

15 A None of these meetings occurred.

16 Q Did any of these meetings get scheduled?

17 A Yes. A meeting with the adult model with the first name  
18 of Marcin was scheduled.

19 Q Now, how many times -- or going back, who is Marcin?

20 A Marcin is an adult male model, and I don't remember his  
21 last name.

22 Q Have you testified about Marcin previously today?

23 A Yes. He had been referred to as, I believe, the Boston  
24 kid.

25 Q And so did that referral actually turn into a sexual

1 liaison?

2 A It did not.

3 Q How many times in total has the defendant referred people  
4 to you since you met him?

5 A I recall approximately four.

6 Q And how much did you pay the defendant approximately for  
7 his referrals?

8 A I recall that it was 1,500 to \$2,500. I'm estimating  
9 1,500 to \$2,500 per referral.

10 Q And how much did you pay defendant for his own sexual  
11 contact with you on a transactional basis?

12 A I recall a similar price range. I'm estimating a similar  
13 price range.

14 Q And how many times did you pay the defendant for his own  
15 sexual contact with you?

16 A I recall approximately four.

17 Q Was there ever any incident where you had sex without  
18 paying him?

19 A Not that I recall. No. I apologize. There was one  
20 meeting at the Bel-Air Hotel where he was a guest of mine at  
21 the hotel and he was not compensated for sexual contact at that  
22 particular trip.

23 Q Did you promise to pay him at that time?

24 A I actually said just the opposite, that I was not able to  
25 compensate him for sexual contact on that trip.

1 Q Now, did you typically pay the defendant on a timely basis  
2 for his referrals or his contact with you?

3 A To the best of my knowledge, always.

4 Q Did you ever owe the defendant money?

5 A Not that I know of.

6 Q Now, looking at the header of Exhibit 119, who was this  
7 e-mail sent to?

8 A It was sent to jarecwentworth@gmail.com.

9 Q And who did you understand that to be?

10 A I understood that to be the defendant.

11 Q And who was the e-mail from?

12 A The e-mail was from me. It's characterized here by my  
13 first and middle name, and then the e-mail address is  
14 argomediallc@gmail.com.

15 Q What is Argo Media, LLC?

16 A Argo Media was a project name I gave to a business idea of  
17 going into the adult entertainment industry in the mid 2013  
18 time frame.

19 Q And did that company ever come to be?

20 A No. The company never existed.

21 Q So why are you using that name to communicate with the  
22 defendant?

23 A It was just to create a discrete e-mail address. So  
24 this -- these kind of communications were segregated from my  
25 work and personal e-mail account.

1 Q And what do you mean when you say "these kind of  
2 communications"?

3 A These communications that involve pay-for-sex  
4 arrangements.

5 Q Did other people in the pornography community know about  
6 Argo Media?

7 A A few of the models that I knew generally that I  
8 considered in 2013 getting into the adult industry, but I don't  
9 think they knew anything about sort of the specific business  
10 concept or that Argo Media ever existed.

11 Q Mr. Burns, did you ever promise pornography actors work in  
12 exchange for having sex with you?

13 A Do you mean --

14 Q Work at Argo Media in exchange for having sex with you?

15 A Absolutely not.

16 Q Now, what is Rentboy.com?

17 A Rentboy.com is an internet site that allows potential  
18 clients to connect with paid escorts.

19 Q Have you had any familiarity or any use of the Rentboy.com  
20 website?

21 A Yes.

22 Q Can you describe that briefly?

23 A I believe that the person that referred me to the  
24 defendant, first name Myles -- to this day I'm not able to  
25 remember his last name. I contacted him through Rentboy -- my

1       recollection is that I contacted him through Rentboy.com.

2       Q       And what type of people are listed on Rentboy.com?

3       A       They are men that make themselves available for paid  
4       sexual encounters.

5       Q       Now, Mr. Burns, how would you treat the pornography actors  
6       or the --

7               THE COURT: Counsel, before we launch into a new  
8       subject, I think it's an appropriate time to take our evening  
9       break since I feel that the air conditioning has gone off.

10          Ladies and gentlemen, we're going to take our first  
11       evening recess, and I want to remind you of the instruction  
12       that I gave you earlier. You're not to discuss this case with  
13       anyone including your fellow jurors, members of your family,  
14       people involved in the trial, or anyone else, nor are you  
15       allowed to permit others to discuss the case with you.

16          Also, it's very important in this case in particular that  
17       you do not read any news stories or articles or listen or --  
18       listen to or watch any radio or TV reports about the case. I  
19       don't know if there are going to be any, but certainly I'm  
20       instructing you and ordering you not to look at any of those  
21       media reports.

22          And, more importantly, you're not to get on the internet  
23       or Google or otherwise research or look up any information  
24       about this case or anyone who has anything to do with the case  
25       on the internet through the various iPhones, iPads,

1       BlackBerries, Twitter. You can only judge this case by the  
2       evidence that's presented in this courtroom.

3           If you violate the Court's order, what that would mean is  
4       that I would have to declare a mistrial. And as I indicated to  
5       you this morning, a mistrial means that we have to start the  
6       case over again. So please keep that instruction in mind  
7       throughout the course of this trial.

8           Tomorrow we will begin our early schedule at 8:00 a.m.  
9       Please leave your homes in sufficient time because, as you can  
10      see, we can't start until you're all here. I promise that,  
11      when you get here, someone will be able to let you in. It will  
12      probably be me. I get here early. You will also have coffee.  
13      I can't guarantee how good the coffee will be, but I guarantee  
14      that it will be fresh and it will be hot.

15           So with that I'm going to ask you to go back into the jury  
16      room and you're dismissed for the evening.

17           (The following proceedings were held in  
18      open court out of the presence of the jury:)

19           THE COURT: All right. The Court is going to remain  
20      in session.

21           You may step down.

22           I have a couple of -- I actually have one issue with  
23      respect to the jury instructions. I've taken a look at the  
24      instructions, and I have a number of observations and a number  
25      of problems with the instructions.

1           The most glaring issue that I see is with respect to  
2 disputed Instruction no. 12. I'm looking at document 182 which  
3 was filed on June 15. The Government has in its elements for  
4 the 875(d) count, the third element is that the communications  
5 contained a true threat to injure someone's reputation. I  
6 don't know what the jury is supposed to divine from "true  
7 threat."

8           There's no definition in the Government's instruction of  
9 what a true threat is. There is definition in the -- proposed  
10 by the defendant to which you object -- to which the Government  
11 objects, but you don't make a proposal in terms of what we're  
12 going to instruct the jury as a true threat.

13           Can you enlighten me why you're not defining "true  
14 threat"?

15           MR. JAUREGUI: Your Honor, we can provide some  
16 language for the Court tonight if that's all right. We can  
17 look into it and provide some language to the Court.

18           THE COURT: Okay. You need to take a look at these  
19 instructions because I think that the other issue that I have  
20 is with respect to the extortion and the attempted extortion  
21 instructions. You have apparently chosen not to use the  
22 9th Circuit's Model Instruction, and that 9th Circuit Model  
23 Instruction has an element in it that the Government has to  
24 prove a wrongful act.

25           Now, I know there's some 9th Circuit cases out there, and

1 the comment to that 9th Circuit Model Instruction, it's not the  
2 clearest. But does the Government believe that it is the  
3 Government's burden to prove that the threat is a wrongful act,  
4 or what is your position? Because you've left it out of the  
5 instructions.

6 I know that some of the 9th Circuit cases talk about it as  
7 an affirmative defense, but I don't really view it as  
8 affirmative defense. So you have to take a look at that. It's  
9 been a long day. I realize that. But take a look at those  
10 issues tonight, and let's have a conversation tomorrow. We'll  
11 resume at 7:45. And certainly I invite the defense to chime in  
12 on those issues also.

13 MR. CHOWDHURY: Thank you, Your Honor.

14 THE COURT: How much longer do you have with  
15 Mr. Burns?

16 MS. JAIMEZ: Your Honor, I would estimate  
17 approximately a half hour, perhaps 45 minutes depending on how  
18 he answers.

19 THE COURT: Okay. And then the estimate for  
20 cross-examination is 60 minutes?

21 MS. AHMAD: No, Your Honor. I think it will  
22 probably be 45 minutes.

23 THE COURT: Okay. And then when do you have the  
24 defense witnesses? When are they going to be required to  
25 appear? They're on call as I understand it. What day did you

1 expect them to be here?

2 MS. AHMAD: I believe, Your Honor, we -- they should  
3 be on call for appearing tomorrow or Thursday.

4 THE COURT: Okay. Because I'm not going to delay  
5 the trial.

6 MS. AHMAD: No. I understand, Your Honor.

7 THE COURT: You'd better have them here. They can  
8 sit in the witness room.

9 What about the individual whose name used initials  
10 yesterday but it was -- now that we -- Jason Bumpus. He's the  
11 one that was unavailable on Thursday?

12 MS. AHMAD: Yes, Your Honor. We communicated to his  
13 counsel that he has to be available.

14 THE COURT: Okay. What was the response?

15 MS. AHMAD: Unpleasant.

16 THE COURT: Expletive deleted.

17 MS. AHMAD: You don't want to know.

18 THE COURT: Okay.

19 MS. AHMAD: I'm sorry, Your Honor. Can I raise  
20 another issue?

21 THE COURT: Sure.

22 MS. AHMAD: As the Court knows, prior to the  
23 original trial date -- so I don't have the exact date in front  
24 of me, but it was a few weeks before the original trial date,  
25 so it must have been April at some point, defense subpoenaed

1 Mr. Burns. And in addition to subpoenaing Mr. Burns, we  
2 subpoenaed documents to be brought to the trial date today,  
3 Your Honor. As the Court knows, there was no motion to quash  
4 filed with respect to that subpoena.

5 So Sidley Austin today produced 400 pages of documents  
6 purportedly responsive to that subpoena that is entirely  
7 redacted. It's 400 pages of black pieces of paper.

8 THE COURT: Okay. I wish you would have raised it  
9 when Mr. Axel was here. What are you able to glean from those  
10 pages? Are they all black?

11 Mr. Axel, just in time. We're discussing an issue with  
12 respect to the documents that you produced pursuant to a  
13 subpoena that counsel has just held up and indicated that  
14 they're -- I don't know, there's 400 some pages, and they're  
15 heavily redacted. Can you enlighten us?

16 MR. AXEL: Yes, Your Honor. I'd ask my colleague  
17 Anand Singh to --

18 MR. SINGH: We had agreed we would produce the  
19 financial --

20 THE COURT: Please take the lectern and announce  
21 your appearance.

22 MR. SINGH: Anand Singh, S-i-n-g-h A-n-a-n-d,  
23 Sidley Austin on behalf of the victim. Thank you, Your Honor.

24 So we had met and conferred with defense counsel over a  
25 period of well over two months I would say, and we came to an

1 agreement that was memorialized in correspondence dated May 7.  
2 We produced the documents to them today pursuant to our  
3 agreement. And it included -- among those are Goldman Sachs  
4 statements that are obviously redacted transactions that we  
5 didn't agree to provide.

6 THE COURT: So why did you wait until today?

7 MR. SINGH: That was our agreement. They told us we  
8 did not have to produce until today.

9 THE COURT: Let me see a copy of the letter.

10 MS. AHMAD: I don't have the --

11 THE COURT: Let me see a copy of the documents.

12 MR. SINGH: In fact, Your Honor, we had a discussion  
13 with them. I can't recall the date offhand, but I specifically  
14 asked when they wanted -- if they expected us to produce early,  
15 and they said no.

16 THE COURT: So what is the nature of the information  
17 that you have redacted?

18 MR. SINGH: Yes, Your Honor. If I could just take  
19 one step back to frame what they asked for. They had asked for  
20 certain financial transactions with specified individuals, and  
21 we had negotiated with them about who those individuals would  
22 be. So what we had agreed ultimately was to search the  
23 victim's Goldman Sachs account for those names and produce  
24 transactions to those persons. And what we have done, we've  
25 pulled the official business records from Goldman Sachs and

1 produced every transaction with those persons that were  
2 specified on the subpoena subject to our negotiated narrowing  
3 and redacted everything else which would include presumably  
4 things like gas charges and electricity bills, things like  
5 that.

6 THE COURT: I'm certainly not going to take the time  
7 to page through these, but it appears to me that -- I see. So  
8 they're heavily redacted; but uncertain of the pages, for  
9 example, on Bates no. 362, there's a redacted portion on the  
10 top and a redacted portion on the bottom. But it does have a  
11 transaction -- it does evidence a transaction on  
12 January 21, 2015 to Amadon, A-m-a-d-o-n, of \$4,000.

13 It looks to me -- I'm not going to get into what you  
14 agreed to and what you didn't agree to, but it sounds to me  
15 like there's information that's included in these reports with  
16 respect to the individuals that are the individuals that --  
17 some of which the defense intends to call as a witness. At  
18 this late time I'm unable to parse through those, but it does  
19 look like the information -- even though they're heavily  
20 redacted, there is information in there. So take a look at  
21 them tonight, and we can discuss it in the morning.

22 MS. AHMAD: All right. Thank you, Your Honor.

23 THE COURT: Anything else? We'll be in recess.  
24 We'll see you at 7:45.

25 (Proceedings concluded at 5:12 p.m.)

1 CERTIFICATE OF OFFICIAL REPORTER  
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15 DATED THIS 21ST DAY OF JULY, 2015.

16

17

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19

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MIRANDA ALGORRI, CSR NO. 12743, CRR  
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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE JOHN F. WALTER, U.S. DISTRICT JUDGE

REPORTER'S TRANSCRIPT OF  
TRIAL DAY 2  
WEDNESDAY, JULY 8, 2015  
7:57 A.M.  
LOS ANGELES, CALIFORNIA

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## M A S T E R I N D E X

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1                   **LOS ANGELES, CALIFORNIA; WEDNESDAY, JULY 8, 2015**  
2                   **7:57 A.M.**  
3                   ---

4                   (The following proceedings were held in  
5                   open court out of the presence of the jury:)

6                   THE CLERK: Day 2 jury trial.

7                   THE COURT: All right. All counsel and the  
8                   defendant are present. The jury is not present.

9                   I wanted to start discussing the jury instructions, and I  
10                  indicated last evening that I thought that the instructions  
11                  that had been proposed -- and I'm referring to document 183  
12                  which was filed on June 15, 2015, that we're going to run into  
13                  a problem instructing the jury as to the first element that the  
14                  defendant knowingly sent a communication through interstate  
15                  commerce containing a true threat without having any definition  
16                  of a true threat.

17                  So have you given any thought as to how we're going to  
18                  solve that problem?

19                  MR. JAUREGUI: Yes, Your Honor. Eddie Jauregui for  
20                  the United States.

21                  I have conferred internally within my office. I have come  
22                  up with a -- with some language defining true threat. It  
23                  actually now tracks pretty closely the language provided by  
24                  defense counsel. It's based on the *Bagdasarian* case cited by  
25                  defense counsel. It is a little different. It tracks more  
                     closely the language in that case. I didn't file it last night

1 because I was still waiting to hear back from someone in our  
2 appeals unit to be perfectly frank. I've now heard back, and  
3 if the Court would like, we can file it today.

4 THE COURT: Let me take a look at it.

5 Have you seen it?

6 MR. CHOWDHURY: Yes, Your Honor. I have seen it.

7 THE COURT: Your comment?

8 MR. CHOWDHURY: Your Honor, I just received it a  
9 couple minutes ago. As to the true threat language, it appears  
10 to be similar -- largely similar to the true threat language  
11 that we have in our disputed Instruction no. 12.

12 One thing I would say is that we still have an issue as to  
13 our proposed fourth element which has a language that  
14 Government must show that the defendant knew he was not  
15 entitled to receive the property. But as to the objective and  
16 subjective standard as to true threat, I think it's relatively  
17 similar. I can take a moment to look at it further.

18 THE COURT: Well, we're not going to decide today.  
19 Well, maybe later on this afternoon.

20 MR. CHOWDHURY: Sure, Your Honor.

21 THE COURT: I'm not asking for a decision. I just  
22 wanted to get in general your reaction to it.

23 MR. CHOWDHURY: Yes.

24 THE COURT: I'm just looking at it also for the  
25 first time. We can continue our discussions this afternoon.

1 I'll take an additional look at it. I actually don't like the  
2 words "true threat" because I think -- I guess if we define  
3 it -- why couldn't we substitute for the word -- instead of  
4 using "true threat," if we used the word "wrongful threat"?

5 MR. CHOWDHURY: Your Honor, I think that is a  
6 possible fix. We do have, as you know in disputed Instruction  
7 no. 13, further definition of wrongfulness that the defense has  
8 proposed. So with that definition and the objective and  
9 subjective standards set out by both parties now, I do think  
10 that's a possible fix.

11 THE COURT: I mean, if we use the first element as  
12 the defendant knowingly sent a communication -- and I actually  
13 think that it's confusing the way the first element is written,  
14 that the defendant knowingly sent a communication in interstate  
15 commerce. I think we should drop the interstate commerce into  
16 a separate element to make sure the jury understands that the  
17 defendant knowingly sent a communication containing a true  
18 threat rather than knowingly sent a communication in interstate  
19 commerce. I think that makes it clear, and then dropping the  
20 interstate commerce into a separate element.

21 But if we used the word "wrongful threat," in determining  
22 whether a communication is a wrongful threat, you must find  
23 that it meets both the objective and subjective standard and  
24 then goes through the definitions -- I'll take a look at it.

25 You know, when dealing with jurors, I can just see the

1 first note coming out trying to understand what a true threat  
2 is because we all know what it means in the context of the case  
3 law, but common lay person being asked to make a determination  
4 as to what a true threat is may be a problem. But I think this  
5 works toward a solution.

6 MR. JAUREGUI: May I be heard on this quickly?

7 THE COURT: Sure.

8 MR. JAUREGUI: My understanding, having looked at  
9 the cases, is that the reason true threat was used is because  
10 threats that are not true threats are protected by the  
11 1st Amendment whereas true threats are not protected by the  
12 1st Amendment.

13 THE COURT: That's true. We know that as a legal  
14 matter, and that's what we're trying to communicate to the  
15 jury. But we also want to communicate it to the jury in a  
16 fashion that they can understand it. And I assume you would  
17 agree that a wrongful threat is one that is not protected by  
18 the 1st Amendment.

19 MR. JAUREGUI: Yes, Your Honor.

20 THE COURT: Okay. So it's basically the flip. A  
21 true threat just is -- we understand what it means in terms of  
22 the law, but in terms of trying to instruct the jury may be  
23 problematic. I'm not ruling now. I just want to get a sense  
24 because I see some issues with respect to the jury instructions  
25 which leads me to another question, that is, with respect to

1 the 1951 instruction which is the disputed Instruction no. 13.  
2 For purposes of the record, the instruction that we were  
3 referring to before is disputed Instruction no. 12.

4 But the Government's proposed instruction with respect to  
5 the 1951(a) violation, there is -- the Government indicates in  
6 its argument in support of its instruction and against -- in  
7 opposition to the defendant's obstruction is that the defendant  
8 appears to be relying on an outdated version of the 9th Circuit  
9 Model 8.142A which is the current version as approved by the  
10 9th Circuit as the June, 2014; that is, with respect to the  
11 second element, that the defendant acted with the intent to  
12 obtain property which is the Government's proposed instruction.

13 The defendant argues that the -- that takes the wrongful  
14 element out of the jury instruction, and you argue that, as I  
15 said, that you think the defendant is operating under the old  
16 Model which may be true except that you have modified the  
17 June, 2013, Model Instruction 8.142A. But you haven't included  
18 the provision in that Model Instruction that a threat is  
19 wrongful, and then there's a bracket if it's unlawful or if the  
20 defendant knew he was not entitled to obtain the property.

21 The commentary to the Model Instruction indicates that  
22 it's unclear in terms of whether or not the Government is  
23 required to prove that the defendant knew that he was not  
24 entitled to the -- to obtain the property, but the commentary  
25 indicates that, until the 9th Circuit decides the question, the

1 Committee recommends the instruction include the wrongful  
2 element.

3 So what's the Government's position on that?

4 MR. JAUREGUI: So, Your Honor, our position is as  
5 stated in our brief. I mean, I think our position is that the  
6 commentary misapprehends and misapplies *Villalobos*. And  
7 *Villalobos* says that some attempts to obtain property are so  
8 inherently wrongful that, whether the defendant had a lawful  
9 claim to the property demanded is not relevant in determining  
10 whether extortion or attempted extortion has been proven.

11 THE COURT: But those cases draw a distinction  
12 between the threat of violence and the threat of economic harm  
13 or harm to one's reputation, and I think the -- there are cases  
14 outside of the 9th Circuit which, in dealing with the economic  
15 harm require -- and I think, if my memory serves me -- I left  
16 my notes in my desk. I can't remember which of the Model  
17 Instructions I looked at, but there is a wrongful element.

18 So I'm not -- I appreciate an argument that the case that  
19 you've referred to you think that the 9th Circuit Jury  
20 Committee misapprehended the import of that case, but in  
21 absence of some better or more persuasive argument, I think  
22 that, in the context of this case, which is clearly as the way  
23 the Government's theory is a threat of reputational harm which  
24 is the same as the cases outside the Circuit which are dealing  
25 with economic harm, that we're going to have to have some

1 instruction with respect to the wrongfulness of the threat.

2 MR. JAUREGUI: Okay. Understood, Your Honor.

3 We did provide in our joint memorandum of disputed jury  
4 instructions on page 9, footnote 4 --

5 THE COURT: Wait a minute.

6 MR. JAUREGUI: Sure.

7 THE COURT: All right.

8 MR. JAUREGUI: We did provide an alternate  
9 definition or instruction for wrongfulness.

10 THE COURT: That's the one that you've included in  
11 the document you gave me this morning?

12 MR. JAUREGUI: As I informed Mr. Chowdhury, it's  
13 slightly modified, very slightly modified, but it is almost  
14 exactly the same. The change is in the last sentence which now  
15 reads "A threat is also wrongful if it is unlawful." That part  
16 is borrowed from the 9th Circuit Model Jury Instruction. The  
17 rest comes from the case I assume the Court is referring to  
18 which is *United States versus Jackson* from the 2nd Circuit  
19 Court of Appeal.

20 THE COURT: Yes. That's the Bill Cosby case.

21 MR. JAUREGUI: Correct.

22 THE COURT: All right. We will take this up in more  
23 detail this afternoon, but at least we're making some progress.

24 We have our jury. So have your witness come in, and we'll  
25 commence the -- resume with Mr. Burns.

1 MS. JAIMEZ: Your Honor, should Government counsel  
2 take the lectern now?

3 THE COURT: Sure.

4 This is not an easy area of the law.

5 MR. CHOWDHURY: No.

6 MR. JAUREGUI: No, Your Honor.

7 THE COURT: The law is not that -- I mean, the law  
8 is complicated, but they're trying to translate the law into  
9 something that makes sense to the jury is where the difficulty  
10 comes in. But we'll get through it.

11 (The following proceedings were held in

12 open court in the presence of the jury:)

13 THE COURT: All right. Good morning, ladies and  
14 gentlemen.

15 Counsel may resume.

16 THE CLERK: Sir, please be reminded that you remain  
17 under oath.

18 THE WITNESS: Yes, ma'am.

19 THE COURT: You may proceed.

20 MS. JAIMEZ: Thank you, Your Honor.

21 DIRECT EXAMINATION (RESUMED)

22 BY MS. JAIMEZ:

23 Q Good morning, Mr. Burns.

24 A Good morning, Ms. Jaimez.

25 Q Now, yesterday we discussed your group sex meetings, and

1 to clarify, who would come to these meetings?

2 A They were adult industry pornographic models.

3 Q And, Mr. Burns, how would you typically treat these  
4 pornography models or actors who slept with you?

5 A Well, historically I referred to them as adult models, and  
6 I did my best to treat them with respect. I flew them to and  
7 from my home where the meetings would take place and from time  
8 to time had casual follow-up conversations with them.

9 Q Would you typically provide them with financial support?

10 A Generally no.

11 Q Were there ever any exceptions to that rule?

12 A In one or two instances, for example, with Mr. Griggs, he  
13 would run into financial difficulty, and I would help him out  
14 from time to time with small amounts of money.

15 Q And looking back now, how much money do you think you've  
16 given Mr. Griggs altogether?

17 A In estimate over the last year would be about \$4,000.

18 Q And to clarify, who is Mr. Griggs to you?

19 A Mr. Griggs is a person that I had a pay-for-sex -- more  
20 than one pay-for-sex meeting with.

21 Q Were there any other exceptional cases?

22 A Yes.

23 Q Can you describe that?

24 A Mr. Amadon and I, after originally meeting for a  
25 pay-for-sex arrangement, became friends and travel companions

1 really now over the course of two years, and I have provided  
2 him continual financial support since late 2013.

3 Q And what do you mean when you say "provide financial  
4 support"?

5 A I provide him regularly -- regular monthly financial  
6 support for rent and school expenses and living expenses and  
7 things of that nature.

8 Q In approximately what amount per month?

9 A It's between 4- and \$5,000 a month.

10 Q And in total to date, how much have you provided in  
11 financial support to this individual?

12 A Somewhere over \$200,000.

13 Q That was over what period of time?

14 A Well, it would have commenced in approximately  
15 October, 2013, through and to today.

16 Q And how would the other pornography actors with whom you  
17 slept with receive payment typically?

18 A If in fact I had a meeting for them that involved payment  
19 for sex, they would be paid for that meeting, and then there  
20 would be no further payment.

21 Q So why do you treat Mr. Griggs and Mr. Amadon differently  
22 from all of the others?

23 A Well, with regard to Mr. Griggs, I rather thought of him  
24 as a friend. You know, he shared with me personal details  
25 about his life. He works in a job in his hometown making about

1 as much money as I did when I was his age, and it's very  
2 difficult to make ends meet in an environment like that. And I  
3 just, you know -- if he asked me, I helped him from time to  
4 time.

5 Q And Mr. Amadon?

6 A Mr. Amadon is a very different situation. After that  
7 first meeting that involved payment for sex, I guess I was  
8 surprised when he said yes, but I invited him to go to Paris  
9 with me on a trip with my friends, and he said yes. And there  
10 was no compensation for that trip other than the cost of travel  
11 of course. I had just become separated from a 17-year  
12 relationship, and traveling with him was just really a  
13 pleasure. And my friends liked him, and it really distracted  
14 me from what else was going on in my life. And from there I  
15 just developed a real friendship with him.

16 Q Now, how does your relationship with Mr. Griggs and your  
17 relationship with Mr. Amadon compare to your relationship with  
18 the defendant?

19 A The relationship with the defendant involved pay-for-sex  
20 meetings. I recall about four to five. It involves paying him  
21 to refer other adult industry models to me and paying him  
22 referral fees for that. And beyond that, we did not travel  
23 around the world together. I didn't give him gifts of any  
24 value. There was just no personal relationship outside casual  
25 text conversations and these meetings that I've described and